

PATENT
Attorney Docket No. 97-035A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kern, et al. Group Art Unit: 3634

Serial No. 09/394,027 Examiner: Redman, J.

Filed: September 10, 1999

For: Resilient Door Panel

**PETITION FOR REVIVAL OF ABANDONED
APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)**

Commissioner for Patents
Washington, D.C. 20231

Sir:

This Petition is being filed pursuant to 37 C.F.R. §1.137(b) to revive an unintentionally abandoned application. This application became abandoned on June 15, 2001 due to failure to respond to the Final Office Action of December 15, 2000 within the statutory period (shortened statutory period of three months, as extended by a three-month petition for extension of time).

NOTE: A notice of abandonment had not yet been received when preparation of this petition began, and this Petition was being prepared in light of the undersigned's knowledge of the fact that the case did indeed become abandoned for failure to respond to the Office Action. The Notice, dated 21 June 01, has now been received.

Authorization is hereby given to charge the Petition fee under 37 C.F.R. §1.17(m) of \$1,210 to Deposit Account 18-1450, and it respectfully requested that the fee be assessed by the Office in that manner.

As mentioned above, this application became abandoned due to the unintentional failure to respond to the December 15 Final Office Action. Rite-Hite Holding Corporation, who employs the

undersigned attorney as Intellectual Property Counsel, also uses a Chicago-based law firm for patent overflow work, as well as docket management. While the Chicago law firm maintains a docket management system, I also maintain my own internal task management system. While the ultimate deadline for this response (June 15, 2001) was correctly entered by me into my task management system, an earlier-dated reminder to me to prepare the response indicated that the due date was June 16, a Saturday. Accordingly, I arrived at the office on the day of Monday, June 18, intending to prepare and file the response. It was at this time that I determined that the deadline was indeed Friday, June 15, and thus that the application had gone abandoned. Since the six-month deadline had already passed, I did not proceed with the filing of a Response, Request for Continued Examination and a Three-Month Extension, as I had planned. Instead, the instant Petition was prepared and filed in an expeditious manner. Accordingly, the entire delay in filing the required reply (submission of an Office Action Response, a Three-Month Extension of Time and a Request for Continued Examination) from the due date of that reply until the filing of this Petition was unintentional.

Attached to this Petition is the response to the outstanding December 15, 2000 Office Action, specifically an Amendment, a Petition for Three-Month Extension of Time up to and including June 15, 2001, an Information Disclosure Statement (including a PTO-1449 and references) and a Request for Continued Examination Transmittal.

Accordingly, it is submitted that the requirements of 37 C.F.R. §1.137(b) have been met in that this Petition is accompanied by:

- (1) The required reply, specifically an Amendment, a Petition for Three-Month Extension of Time up to and including June 15, 2001, an Information Disclosure Statement (including a PTO-1449 and references) and a Request for Continued Examination Transmittal;
- (2) The Petition fee as set forth in §1.17(m) in that authorization to charge that fee to Deposit Account 18-1450 was given in the first paragraph of this Petition; and

In re Kern, et al.
Serial No. 09/394,027

(3) A statement that the entire delay in filing the reply from its due date until the filing of this Petition was unintentional.

Given that the requirements of 37 C.F.R. §1.137(b) have been met, it is respectfully requested that this application be revived, the Office Action Response entered, and that prosecution continue.

If, in the opinion of the Petitions Branch, a telephone conference would expedite the prosecution of the subject application, the Petitions Branch is invited to call the undersigned attorney at 414-362-0610.

Signed at Milwaukee, in the County of Milwaukee and State of Wisconsin, on June 27, 2001.

Respectfully submitted,

RITE-HITE HOLDING CORPORATION

By 
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In re Kern, et al.
Serial No. 09/394,027

CERTIFICATE OF MAILING

I hereby certify that this PETITION FOR REVIVAL OF ABANDONED APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b) is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on June 27, 2001.

June 27, 2001
(date)

Matthew C. McNeil